IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 541 / 2004

Petitioner : M/s Ken Memorial Christian English Higher Secondary School through its Principal Kududand, Bilaspur-(C.G.)

Versus

Respondents 1. The Regional Provident Fund Commissioner, Regional Office, Raipur-(C.G.)

2. The Assistant Provident Fund Commissioner, Regional Office, Raipur-(C.G.)

P. R. No. 526/04 Presented by Shri Rajkumar Gupta dated 16.2.04

WRIT PETITION U/A 226 / 227 OF THE CONSTITUTION OF INDIA

(43)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 541 सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

17/01/2005: -

Shri P.S. Koshy learned counsel for the petitioner.
Shri Pradeep Saxena learned counsel for respondents 1 and 2.

Heard.

The submission of the learned counsel appearing for the petitioner is that the petitioner's Establishment is a Christian Minority Educational Institution and is covered under the provisions of Employees' Provident Funds & Miscellaneous Provisions Act, 1952 *(for short "the Act")*. It is submitted that the Establishment was deducting the provident fund contribution of the employees at the Government rate i.e. 8% which was applicable in all the State Government Establishments including that of the private aided and non-aided institutions. The contribution was being deposited in a separate bank account exclusively maintained for the provident fund which was opened in the State Bank of India, Collectorate Branch, Bilaspur. Further submission of the learned counsel is that subsequently, the provident fund authorities issued a notice and instructed the school authorities that depositing and maintaining of the provident fund contribution in the bank account was not proper and the same should actually be deposited with the respondent organization in the separate account. Thereafter the school authorities vide demand draft dated 23/07/2002 deposited a sum of Rs.2,38,933.87 in the office of respondents organization under the Code No.11481, granted to them. It is further submitted that since there was delay on the part of the petitioner's establishment in deducting the contribution and depositing the same with the authorities, the provident fund authority arbitrarily

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आदेश पत्रक (पूर्वानुबद्ध)

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imposed the amount of damages vide order dated 13/10/2003 (Annexure-P/1). The said order was made under Section 14-B of the Act.

During the course of arguments, an objection was raised to the effect that the order (Annexure-P/1) is appealable before the Tribunal which is functioning at Delhi. After perusal of the order, it transpires that the order passed under Section 14-B of the Act is appealable under Section 7-I of the Act before the Tribunal. Since an alternate remedy was available to the petitioner, the same was brought to the notice of learned counsel appearing for the petitioner. Learned counsel further submits that at the time of filing of the petition, the Presiding Officer of the Tribunal was not available, therefore, the matters were not taken up. He submits that now the Presiding Officer is available and some time may be given to the petitioner for filing an appeal before the Tribunal. Learned counsel also prays that since the authorities have also started proceedings under Section 8-F of the Act regarding recovery and some coercive steps are to be taken against the petitioner, some protective orders may be passed so that the petitioner may reach the Tribunal and pray for issuance of some interim order in his favour.

In the opinion of this Court, the prayer made by the learned counsel appearing for the petitioner seems to be reasonable. The prayer is allowed. The petitioner is free to file an appeal before the Tribunal in accordance with law. However, it is directed that the respondents shall not take any coercive steps against the petitioner regarding the recovery of the aforementioned amount for a period of

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	sixty days from today. It is expected that the petitioner shall file appeal before the Tribunal during the said period. This order of interim relief shall lose its efficacy after the aforesaid sixty days' period from today automatically. With the aforesaid observations, the petition stands disposed of finally. Let certified copy of this order be supplied to the parties as per rules. **Sd/-** **Sunil Kumar Sinha** **Judge**	

Brajesh.